

*[No Minutes Were Generated on Monday, May 31, 1999, Due to the Court's Observance of Memorial Holiday.]*

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**SUPREME COURT MINUTES  
TUESDAY, JUNE 1, 1999  
SAN FRANCISCO, CALIFORNIA**

The Supreme Court of California convened in the courtroom of the Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on June 1, 1999, at 9:00 a.m.

Present: Chief Justice Ronald M. George, presiding, and Associate Justices Kennard, Werdegarr, Chin, and Brown.

Officers present: Robert Wandruff, Clerk; and Harry Kinney, Bailiff.

The Honorable Arthur Gilbert, Acting Presiding Justice, Court of Appeal, Second Appellate District, Division Six, sitting on the following case under assignment by the Chairperson of the Judicial Council, joined the Court at the bench.

The Honorable Barton C. Gaut, Associate Justice, Court of Appeal, Fourth Appellate District, Division Two, sitting on the following case under the assignment by the Chairperson of the Judicial Council, joined the Court at the bench.

S074850      Hotel Employees & Restaurant Employees International Union,  
                  Petitioner

v.

Gray Davis et al., Respondents  
Frank Lawrence, Real Party in Interest

S074851      Eric Cortez et al., Petitioners

v.

Gray Davis, Respondent  
Frank Lawrence et al., Real Parties in Interest

Cause called. Richard G. McCracken argued for Petitioners  
Hotel Employees Union.

Theodore B. Olson argued for Petitioners Cortez et al.

Mark Epstein argued for Real Party in Interest.

Mr. Olson replied.

Cause submitted.

Justice Gilbert, not participating in the following matters, departs the bench. The Court is joined at the bench by Justice Mosk.

Justice Gaut, not participating in the following matters, departs the bench. The Court is joined at the bench by Justice Baxter. All other officers were present as before shown.

S062379 People, Respondent

v.

Terry Birkett, Appellant

Cause called. Patricia J. Ulibarri argued for Appellant.

Marilyn L. George, Deputy Attorney General, argued for Respondent.

Ms. Ulibarri replied.

Cause submitted.

S073129 Benjamin R. Horwich, Petitioner

v.

Los Angeles County Superior Court, Respondent

Edward Acuna et al., Real Parties in Interest

Cause called. Jon B. Eisenberg argued for Petitioner.

M. Scott Radovich argued for Real Parties in Interest.

James C. Harrison, appearing for Amicus Curiae Congress of California Seniors et al., continued argument for Real Parties in Interest.

Mr. Eisenberg replied.

Cause submitted.

Court recessed until 1:30 p.m. this date.

Court reconvened pursuant to recess.

Members of the Court and Officers present as first shown.

- S053930 County of Los Angeles et al., Petitioners  
v.  
Los Angeles County Superior Court, Respondent  
Kim A. Schonert, Real Party in Interest  
Cause called. Calvin R. House, retained counsel, argued for Petitioner.  
Virginia Keeny opened argument for Real Party in Interest.  
Catherine Fisk, appearing for Amicus Curiae Protection and Advocacy, continued argument for Real Party in Interest.  
Mr. House replied.  
Cause submitted.
- S068741 People, Appellant  
v.  
Cheryl Jeanne Woods et al., Respondents  
Cause called. John H. Deist, Deputy Attorney General, argued for Appellant.  
L. Richard Braucher, First District Appellate Project, argued for Respondent Benson.  
Mr. Deist replied.  
Cause submitted.
- S072534 Raymond Bruce Belton, Appellant  
v.  
Bowers Ambulance Service, Respondent  
Cause called. Mark Schreiber argued for Respondent.  
Anthony Boskovich opened argument for Appellant.  
Arthur Schwimmer, appearing as Amicus Curiae, continued argument for Appellant.  
Mr. Schreiber replied.  
Cause submitted.

Court recessed until 9:00 a.m., Wednesday, June 2, 1999.

S005970      People, Plaintiff and Respondent  
                 v.  
                 Joseph William Hart, Defendant and Appellant  
                 The judgment is affirmed in its entirety.

George, C.J.

We Concur:  
Mosk, J.  
Kennard, J.  
Baxter, J.  
Werdegar, J.  
Chin, J.  
Brown, J.

S011323      People, Plaintiff and Respondent  
                 v.  
                 David Esco Welch, Defendant and Appellant  
                 BY THE COURT:  
                 We affirm the judgment in its entirety.

Dissenting Opinion by Mosk, J.

I Concur:  
Kennard, J.

S069688 Regents of the University of California et al., Petitioners

v.

Superior Court of the City and County of San Francisco, Respondent  
Tim Molloy et al., Real Parties in Interest

[W]e conclude that we must reverse the judgment of the Court of Appeal denying the Regents' petition for writ of mandate insofar as it sought a peremptory writ, and must remand the cause to that court with directions to remand it in turn to the superior court with directions to conduct proceedings not inconsistent with the views expressed herein.

It is so ordered.

Mosk, J.

We Concur:

George, C.J.

Kennard, J.

Baxter, J.

Werdegar, J.

Chin, J.

Brown, J.

Concurring Opinion by Brown, J.

I Concur:

Baxter, J.

S069783 People, Plaintiff and Respondent

v.

Jerry Garcia, Defendant and Appellant

We conclude that a trial court in a Three Strikes case may exercise its discretion under section 1385, subdivision (a), so as to dismiss a prior conviction allegation with respect to one count, but not with respect to another. We also conclude that the trial court here did not abuse this discretion. Accordingly, we reverse the judgment of the Court of Appeal and remand for consideration of defendant's claim of cruel and unusual punishment.

Chin, J.

We Concur:

George, C.J.

Mosk, J.

Kennard, J.

Baxter, J.

Werdegar, J.

Dissenting Opinion by Brown, J.

S077360 People, Respondent

v.

Eldon Dee Tillman, Appellant

Pursuant to rule 29.2(b) of the California Rules of Court, the parties are ordered to limit briefing and oral argument to the following question: Did the Court of Appeal properly correct the trial court's failure to impose mandatory restitution fines (Pen. Code, §§ 1202.4, 1202.45) even though the People had not first requested relief in the trial court?

C028970 People, Appellant

v.

Philip Lenford Allen, Respondent

The time for granting or denying review on the court's own motion is hereby extended to and including July 1, 1999, or the date upon which review is either granted or denied. Rule 28(a)(1), California Rules of Court.

S016719 People, Respondent

v.

Ralph Michael Yeoman, Appellant

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's reply brief is extended to and including July 19, 1999.

S020032 People, Respondent

v.

Raymond Anthony Lewis, Appellant

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's reply brief is extended to and including June 28, 1999.

S033360 People, Respondent

v.

Keone Wallace, Appellant

On application of appellant and good cause appearing, it is ordered that the appellant is granted to and including August 6, 1999, to request correction of the record on appeal. Counsel for appellant is ordered to notify the Clerk of the Supreme Court in writing as soon as the act as to which the Court has granted an extension of time has been completed.

No further extensions of time will be granted.

S071382 In re Stefan Gaston

on

Habeas Corpus

On application of the Attorney General and good cause appearing, it is ordered that the time to serve and file the informal response is extended to and including June 28, 1999.

S079290 Peter Zuniga, Petitioner

v.

Ventura County Superior Court, Respondent

Jenny Alice Romero, Real Party in Interest

The above entitled matter is transferred to the Court of Appeal, Second Appellate District, Division Six.

S079248      In the Matter of the Application of the Committee of Bar Examiners  
of the State of California for Admission of Attorneys

The written motion of the Committee of Bar Examiners that the following named applicants, who have fulfilled the requirements for admission to practice law in the State of California, be admitted as attorneys at law in all courts of the State of California upon their taking the prescribed oath before a competent officer on or before June 1, 1999, and within the time limits specified in Rule IX of the Rules Regulating Admission to Practice Law in California, is hereby granted:

(LIST OF NAMES ATTACHED TO ORIGINAL ORDER)

S072196      In the Matter of the Suspension of Attorneys  
Pursuant to Rule 962 California Rules of Court

Having been provided proof of compliance pursuant to subdivision (1) of section 11350.6 of the Welfare and Institutions Code, the suspension of **Mark Edward Powers**, pursuant to our order filed on , is hereby terminated.

This order is final forthwith.



